

REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 3-5 are active in the present application. Claims 1, 2, and 6-15 have been canceled without prejudice or disclaimer.

In the outstanding Office Action, Claims 1 and 15 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 5,189,404 to Masimo et al. (herein "Masimo") in view of U.S. Patent No. 6,011,585 to Anderson; Claims 2 was rejected under 35 U.S.C. 103(a) as unpatentable over U.S. Patent No. 4,689,824 to Mitchell et al. (herein "Mitchell") in view of Anderson.

Applicant gratefully acknowledges the Examiner's indication that Claims 3-5 are allowed.

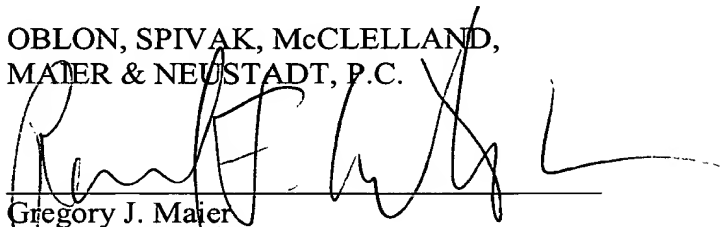
Turning to the rejection of Claims 1 and 15 under 35 U.S.C. § 103(a) as unpatentable over Masimo in view of Anderson, it is noted that Claims 1 and 15 have been canceled so that this rejection is believed to be moot.

Claim 2 stands rejected under 35 U.S.C. §103(a) as unpatentable over Mitchell in view of Anderson. However, Claim 2 has also been canceled which is believed to further render this rejection to be moot.

Accordingly, as only allowed Claims 3-5 remain in this application, the present application is believed to be in condition for allowance and an early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

A handwritten signature in black ink, appearing to read 'Gregory J. Maier', is written over a horizontal line.

Gregory J. Maier
Attorney of Record
Registration No. 25,599

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 06/04)
GJM:RFC:jmp

Raymond F. Cardillo, Jr.
Registration No. 40,440